

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, September 10, 2020
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Zoom/ City of Muskegon Government Facebook Page

AGENDA

- I. Roll Call
- II. Approval of Minutes from the regular meeting of August 20, 2020.
- III. Public Hearings
 - A. Hearing, Case 2020-15: Staff-initiated request to rezone all single-family (R-1, R-2, R-3) and duplex (RT) parcels in the McLaughlin, Angell and Jackson Hill neighborhoods to Form Based Code, Urban Residential (FBC-UR).
 - B. Hearing, Case 2020-16: Staff-initiated request to amend the FBC, UR section of the zoning ordinance to restrict three and four unit homes to parcels that have a useable alley or rear access easement.
- IV. New Business
- V. Old Business
- VI. Other
- VII. Adjourn

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CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Meisch, City Clerk
933 Terrace Street
Muskegon MI 49440

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

August 20, 2020

This meeting was held electronically via Zoom. Vice Chairperson B. Mazade called the meeting to order at 4:04 p.m. and roll was taken.

MEMBERS PRESENT: J. Montgomery-Keast, F. Peterson, L. Spataro, B. Larson, S. Gawron, B. Mazade, J. Doyle, E. Hood

MEMBERS ABSENT: T. Michalski

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: Via Zoom and/or call-in: M. Grijalba, 14063 Georgian Bay, Holland MI; A. Smith of Grand Haven; S. Olson, 761 Alberta; J. LaNore, 752 Lyman, S. Orey, 1314 E Apple; R. Franklin, 3753 Fairway Dr; T. Powers, 2073 Bourdon St; M. Gallavin, 590 W. Muskegon Ave; D. Foster, 135 Ottawa

APPROVAL OF MINUTES

A motion to approve the Minutes of the special Planning Commission meeting of July 16, 2020 was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2020-13: Request to rezone 55 Ottawa St, 61 Ottawa St and 65 Bank St from WM, Waterfront Marine to I-2, General Industrial. M. Franzak presented the staff report. The subject properties are currently zoned WM- Waterfront Marine. The applicant is seeking a rezoning to industrial in order to run a crane operating training center. The site would eventually contain a building in the front and training center in the back. The most appropriate zoning for this type of use would be I-2, as many of the principal uses allowed include the usage of cranes. Staff would consider this request a principal use permitted in I-2 districts. The properties are adjacent to an I-2 zoning district and the area is characterized by industrial, port and heavy commercial uses. Zoning ordinance excerpt for I-2 districts were provided to board members. Notices were sent to properties within 300 feet of the subject property. R. Mathews from Verplankq1 Trucking contacted staff to state that he was in favor of the request. Staff recommends approval the rezoning request. Board members had no questions for staff.

M. Grijalba was the applicant and discussed his request. He stated that he was a tower crane operator and also trained people around Michigan. Operation of the cranes required certification and he was interested in helping people with the training and certification process. He stated that training facilities were scarce and he hoped to establish a facility here and become well-known in the heavy industrial trade. He was a veteran and hoped to recruit others exiting the military. J. Montgomery-Keast asked how big of a facility he planned to have. M. Grijalba stated that he would have a tower crane and a few other types of cranes, but they wouldn't be visually imposing with a bunch of booms sticking up in the air. S. Gawron asked if he owned the property. M. Grijalba stated that a sale was in process, but his purchase of the property was contingent on obtaining approval for the crane facility. A public comment period was opened, allowing the public to

call with any comments. None were received.

A motion that the request to rezone 55 Ottawa St, 61 Ottawa St and 65 Bank St from WM, Waterfront Marine to I-2, General Industrial be recommended to the City Commission for approval, was made by J. Montgomery-Keast, supported by E. Hood and unanimously approved, with J. Montgomery-Keast, F. Peterson, L. Spataro, S. Gawron, B. Mazade, and E. Hood voting aye.

Hearing, Case 2020-14: Staff-initiated request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to several other locations. M. Franzak presented the staff report. The City currently allows MMFLA (medical) and the MRMTA (recreational) marihuana licenses in only one district. Staff has received comments from citizens and city commissioners about the need to expand these districts to provide better access for citizens and to make the industry more equitable to property owners across the City. Staff is proposing to amend the ordinance to allow five additional (smaller) districts, with specific licensing restrictions to each. All of the proposed additional districts would require the same site enhancements as required by the current ordinance. Copies of the current Marihuana Facilities Overlay District and the proposed amended Marihuana Facilities Overlay District ordinances were provided to board members. The current Marihuana Facilities District has seen the transformation of several vacant/underutilized properties into remodeled, active buildings; staff provided before and after pictures of several buildings within the district. Staff believes the newly proposed districts will also assist in the redevelopment of key properties. Notice was sent to properties within 300 feet of the proposed districts. After notices were mailed, staff removed 821 and 847 E Apple Ave from the request. Several e-mail responses were received. M. Franzak stated that some had expressed an opinion that this constituted spot-zoning, but he disagreed with that assertion. He explained that retail sales were being proposed, and the locations under consideration all permitted that activity.

B. Mazade asked staff and board members if they'd like to consider all properties as one lot, or break up the motion to address the individual districts. M. Franzak stated that either way was acceptable. E. Hood asked if the proposed districts were limited to only those addresses presented for consideration. M. Franzak stated that was correct; only the specific addresses listed would be eligible. L. Spataro stated that he preferred to see regulation similar to the way alcohol sales were allowed, rather than choosing specific properties. He thought that this approach could compound the speculation problem occurring in the original marihuana district. He stated that he understood the desire to incentivize the redevelopment of underused buildings, but for the sake of fairness he believed it best to determine which zoning districts were appropriate, then let the City Commission approve the individual requests.

B. Larson arrived at 4:28 PM.

B. Larson stated that he felt the addition of more marihuana districts was being rushed. The industry was still in the beginning stages of development in the current zone and he didn't think that additional zones were needed yet. E. Hood asked how the specific properties were chosen over others in the same area, as there were other available sites in the proposed districts. F. Peterson discussed the concerns he had heard from those in the industry, including the cost to get into the business, the inflated cost of properties in the current district, and the difficulties that people of color were having in getting involved. Staff had provided examples of the steep property costs at the previous meeting, and the thought process was to expand into other areas of the city to untie the market in the current district and make it more affordable. There were numerous vacant properties in the Apple and Getty area, which was a very visible location. Other sites were considered as possible catalysts for other development. Requirements for the new districts would require major investment that would benefit the rest of the community. E. Hood asked if staff had reached out to the surrounding residents. F. Peterson stated that they had reached out by written notice, with almost 700 letters sent to neighboring properties. J. Montgomery-Keast stated that she was interested in the social justice component but was concerned about the fairness and the number of additional buildings proposed in each district. She was also concerned about the number of public comments expressing opposition to the idea.

She was not opposed to expansion but wanted to ensure it was done the right way. B. Mazade was concerned with the proliferation of marihuana businesses in the City. He anticipated the same result in the new districts as was being seen with the inflated prices in the current district. He was also concerned about the potential negative impact on residents and businesses in the proposed districts, as evidenced by the public comments received. He stated that the proposal unintentionally rewarded owners of derelict properties, and at least 5 of the proposed locations had operating businesses in them. S. Gawron stated that, when marihuana was legalized, he expected these issues to arise in the future but didn't think the city was ready for this level of expansion yet. At this juncture, he preferred to stay with the existing zone and see how the industry evolves. He stated that it was also important to consider the effect on neighboring properties and the pushback from the public.

J. Doyle arrived at 4:40 PM.

Several comments were received by staff via e-mail prior to the meeting and were made available for public viewing on the City's website, with the link shared on Facebook. Comments in support of the marihuana district expansion were received from V. Labotta of Straight Line LLC, M. Tisch, 2107 Henry St, S. Orey of 1314 E Apple, and B. Gilbert of 971 Washington. Several of those expressing support requested that their properties also be considered for inclusion in the marihuana districts.

Those expressing objection to the expansion were K. Bloss of 248 W Clay Ave, Brent Plumhoff, Brian Plumhoff of 2425 Fountain, B. VanFossen of 3276 Boltwood Dr, M. Budzynski of 1845 Peck St, C. Zimmer of 871 First St, S. Olsen of Northern Machine Tool, G. Maki of 1922 Park St, G. & L. Samples, 1930 Lakeshore Dr, D. Cater of 292 W Clay objected to any growing facilities downtown, Karl Bloss, 242 W Clay, S. & A. Beck of 260 W Clay, and S. Green of 2574 Morton Ave. There was also a petition submitted, opposing the inclusion of the Lakeshore Drive properties, which contained 25 signatures of people in the Lakeside area.

The public hearing was opened for call-in comments: A. Smith believed that the request constituted spot zoning and that it unfairly favored specific properties. S. Olson was opposed to the request, stating that the expansion of the marihuana districts was premature and unfairly favored specific properties. He requested that the properties on Lakeshore Drive and in the downtown area be removed from consideration, as they were close to other developments he was involved in which he felt could be negatively affected. J. LaNore spoke in favor of expansion of the districts to make properties more affordable, and stated that he had properties he'd like to have included. S. Orey spoke in favor of expansion but preferred to see more effort to involve local people and existing caregivers. R. Franklin was a caregiver and requested that his property at 1700 Lakeshore Dr be included in the expansion; T. Powers was opposed to the request and preferred to see the current district fully developed first, with existing local caregivers being included in any future expansion. M. Gallavin stated that he owned property in one of the proposed districts and would like to have his property included, but he felt that the method of singling out specific properties was unfair. D. Foster preferred to see more emphasis put on quality medical marihuana establishments with local quality-control testing.

With no further comments, a motion to close the public hearing was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved.

A motion that the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district as presented be recommend to the City for denial, was made by B. Larson and supported by L. Spataro, with discussion continuing on the motion.

L. Spataro stated that, in light of the comments made, he'd be willing to further explore the expansion issue but in a more transparent way. J. Doyle concurred with L. Spataro's earlier comments about regulating the

marihuana industry similar to that of alcohol establishments, and was opposed to singling out individual properties for inclusion. He also preferred to see the current district more fully developed before considering expansion. F. Peterson stated that when the original district was created, the intent was not to have it fully developed with cannabis businesses, but for that industry to spur development, making it attractive to various types of businesses. Regarding the issue of choosing specific properties, they were chosen to benefit Muskegon as a whole, not just individual property owners--the proposed expansion ordinance required additional development, such as the addition of apartments, in addition to a cannabis business. He stated that it was important to strike while the iron was hot and let the market sort out the successful vs unsuccessful businesses. The entire city would benefit by the investment in and improvement of the proposed properties. E. Hood stated that he understood the intent and appreciated that F. Peterson had been listening to the community regarding the importance of minority involvement in the industry. He stated that he had reviewed the e-mails and comments, and hadn't seen a lot of opposition to most of the properties, especially in the East Muskegon areas.

A vote was taken on the motion to deny the request, which passed with B. Mazade, L. Spataro, J. Montgomery-Keast, S. Gawron, J. Doyle and B. Larson voting aye, and F. Peterson and E. Hood voting nay.

NEW BUSINESS

None

OLD BUSINESS

Windward Pointe – M. Franzak stated that clean-up continued on the property. F. Peterson stated that the city was close to a solution on the railroad tracks.

Filtration plan cell tower – J. Doyle asked for an update to the plans for the cell tower. F. Peterson stated that there were no recent developments. The city was awaiting responses from cell providers. He also stated that it looked like the tower would be a monopole and shorter than the original 300-foot height requested.

Downtown walkability during construction – L. Spataro observed that construction projects in the downtown area were not making arrangements for walkability when sidewalks were torn up or blocked off. He stated that pedestrian walkways needed to be addressed during construction.

The Docks – B. Mazade asked about the construction materials located near The Docks property. M. Franzak stated that those were for a water main project on Beach St. The Docks development was still in the process of obtaining approval from the Corp of Engineers and EGLE.

There being no further business, the meeting was adjourned at 5:31 PM.

DR

STAFF REPORT
SEPTEMBER 10, 2020

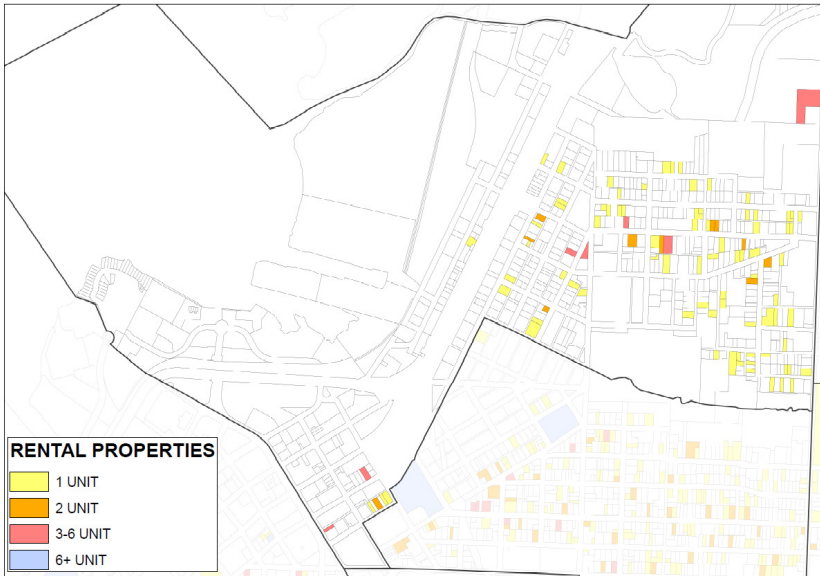
Hearing, Case 2020-15: Staff-initiated request to rezone all single-family (R-1, R-2, R-3) and duplex (RT) parcels in the McLaughlin, Angell and Jackson Hill neighborhoods to Form Based Code, Urban Residential (FBC-UR).

PRESENTAION GIVEN AT 8/31/2020 CITY COMMISSION WORKSESSION

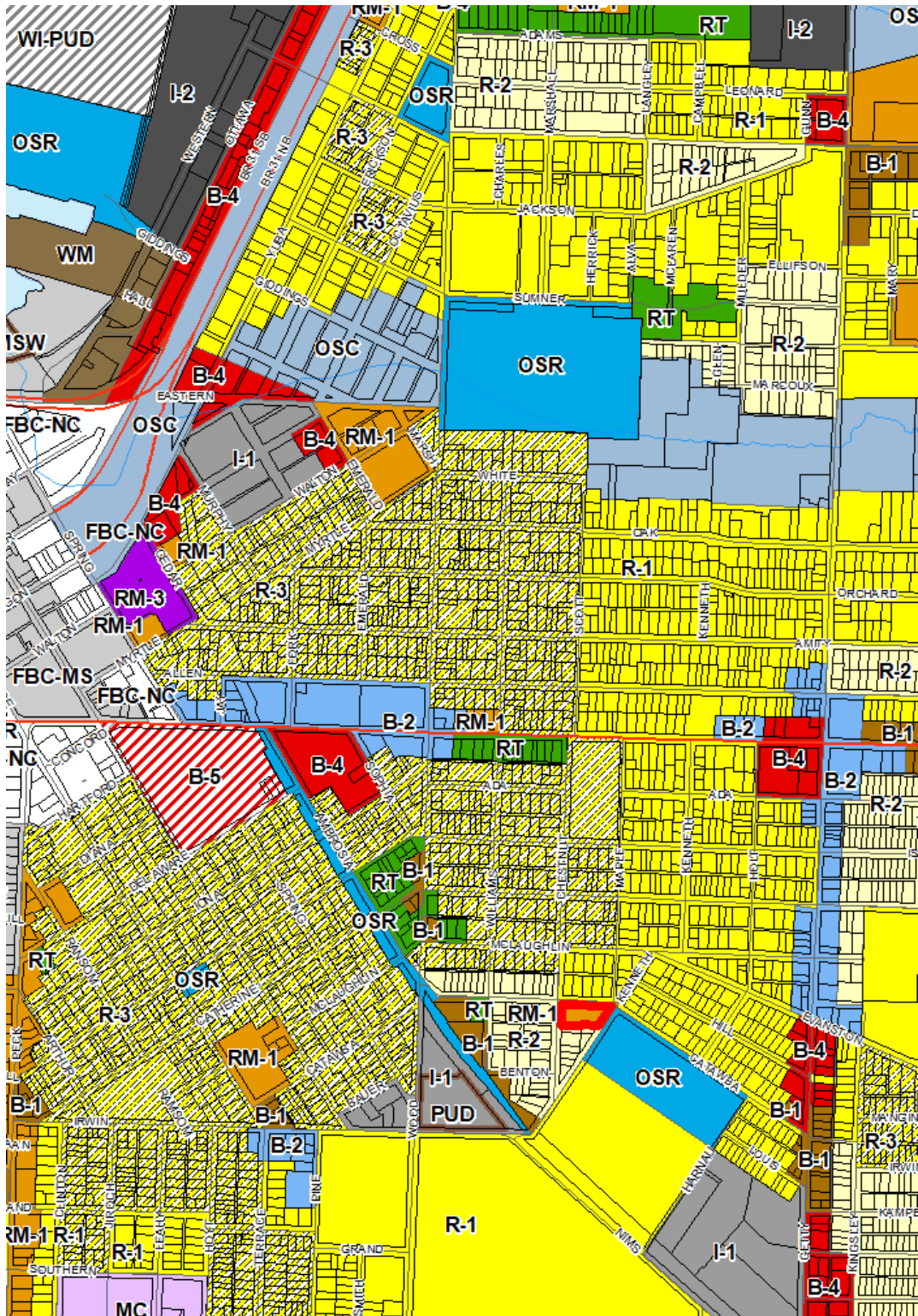
The zoning in McLaughlin, Angell and Jackson Hill doesn't match reality.

- Neighborhoods consist of single-family, duplex and small multiplex (3-4 units) homes.
- The zoning says only single-family homes are allowed.
- This makes all homes other than single-family homes “non-conforming.”
- “Non- conforming” properties are susceptible to disinvestment.
 - Financing Issues
 - Insurance Issues
 - Rebuilding Issues
 - Unusable Space
- The proper zoning designation will promote reinvestment within the neighborhood.
- City staff is proposing to rezone the neighborhood to allow the types of homes that already exist here, but are considered non-conforming.
- New duplexes/small multiplexes will be built on the appropriate lots and reduce many of the problems associated with existing multi-family homes.
- Alleys reduce privacy/noise issues associated with multi-family homes. We should only allow small-multiplexes where alleys are present.
- **More housing options = more affordable housing**

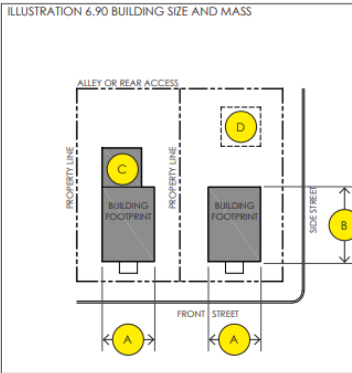
We know from the rental maps that these neighborhoods are already made up of missing middle housing types.



So why is the zoning map mostly yellow (single-family) in these neighborhoods?

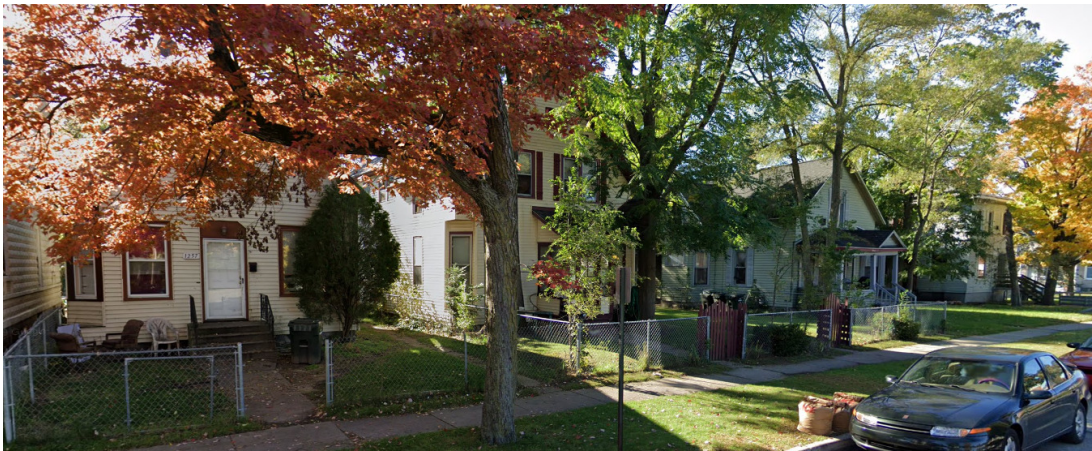


Form Based Code only allows duplexes/small multiplexes on appropriate lot sizes. Note required lot widths.



SMALL MULTI-FLX BUILDING TYPE	with STOOP	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with PROJECTING PORCH	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with ENGAGED PORCH	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
ROWHOUSE BUILDING TYPE	with LIGHTWELL			
	with STOOP	By Right	2 story building required	Lot Width: 18' min. / 30' max. Lot Depth: 100' min.
	with PROJECTING PORCH	By Right	2 story building required	Lot Width: 18' min. / 30' max. Lot Depth: 100' min.
DUPLEX BUILDING TYPE	with STOOP	By Right	2 story building required	Lot Width: 40' min. / 60' max. Lot Depth: 100' min.
	with PROJECTING PORCH	By Right	2 story building required	Lot Width: 40' min. / 60' max. Lot Depth: 100' min.
	with ENGAGED PORCH	By Right	2 story building required	Lot Width: 40' min. / 60' max. Lot Depth: 100' min.
DETACHED HOUSE BUILDING TYPE	with STOOP	By Right	2 story max. / 1 story min.	Lot Width: 30' min. / 60' max. Lot Depth: 100' min.
	with PROJECTING PORCH	By Right	2 story max. / 1 story min.	Lot Width: 30' min. / 60' max. Lot Depth: 100' min.
	with ENGAGED PORCH	By Right	2 story max. / 1 story min.	Lot Width: 30' min. / 60' max. Lot Depth: 100' min.
CARRIAGE HOUSE BUILDING TYPE		By Right	2 story building required	Not Applicable - Carriage House Building Type must be used as an accessory building to another building type (refer to Section 2006)
CIVIC BUILDING TYPE		By Right	3 story max. / 2 story min.	Lot Width: 25' min. / 150' max. Lot Depth: 100' min.

So you end up with this



Not this



Proper Zoning

4 unit home (left) on an appropriately sized lot with alley access next to vacant lot and a single-family home (right)



Improper Zoning

3-unit home (below left) on a lot that is too small and without alley access, parking in the yard. And multi-family homes (below right) with no alley access, using a vacant lot for parking/storage.



Proper Zoning

4-unit homes in McLaughlin on appropriately sized lots with alleys. ADU in the back of parcel on the left.



Improper Zoning

3 unit on small parcel without alley, make-shift parking lot on vacant lot adjacent



Improper Zoning

Former duplex on Isabella. Non-conforming. Sitting vacant. A potential buyer wants to invest, but only if it makes sense. Not economically feasible to turn back to single-family. Potential ADU in back.



FBC, UR zoning would allow the following home types:

- Detached
- Rowhouse
- Duplex
- Small Multi-plex
- Live/Work
- Carriage House (Accessory Dwelling Unit)

LIVE / WORK BUILDING TYPE	with STOREFRONT			
	with DOORYARD	Conditional*	2 story building required	Lot Width: 18' min. / 35' max. Lot Depth: 80' min.
	with LIGHTWELL			
	with STOOP	Conditional*	2 story building required	Lot Width: 18' min. / 35' max. Lot Depth: 80' min.
LARGE MULTI-PLEX BUILDING TYPE	with FORECOURT			
	with DOORYARD			
	with STOOP			
	with PROJECTING PORCH			
SMALL MULTI-PLEX BUILDING TYPE	with STOOP	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with PROJECTING PORCH	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with ENGAGED PORCH	By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
ROWHOUSE BUILDING TYPE	with LIGHTWELL			
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	with PROJECTING PORCH	By Right	2 story building required	Lot Width: 18' min. / 30' max. Lot Depth: 100' min.
DUPLEX BUILDING TYPE	with STOOP	By Right	2 story building required	Lot Width: 40' min. / 60' max. Lot Depth: 100' min.
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CARRIAGE HOUSE BUILDING TYPE		By Right	2 story building required	Not Applicable - Carriage House Building Type must be used as an accessory building to another building type (refer to Section 2006)
CIVIC BUILDING TYPE		By Right	3 story max. / 2 story min.	Lot Width: 25' min. / 150' max. Lot Depth: 100' min.

Shaded areas represent Building Types and / or frontages that are not permitted in specified Context Area.

* Refer to the Building Type with specific frontage option in Section 2006 for buildings and frontages labeled as Conditional.

Staff Proposes to Amend the Form Based Code Slightly

SMALL MULTI-PLEX BUILDING TYPE B	with PROJECTING PORCH			
	with STOOP	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with PROJECTING PORCH	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with ENGAGED PORCH	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
with LIGHTWELL				

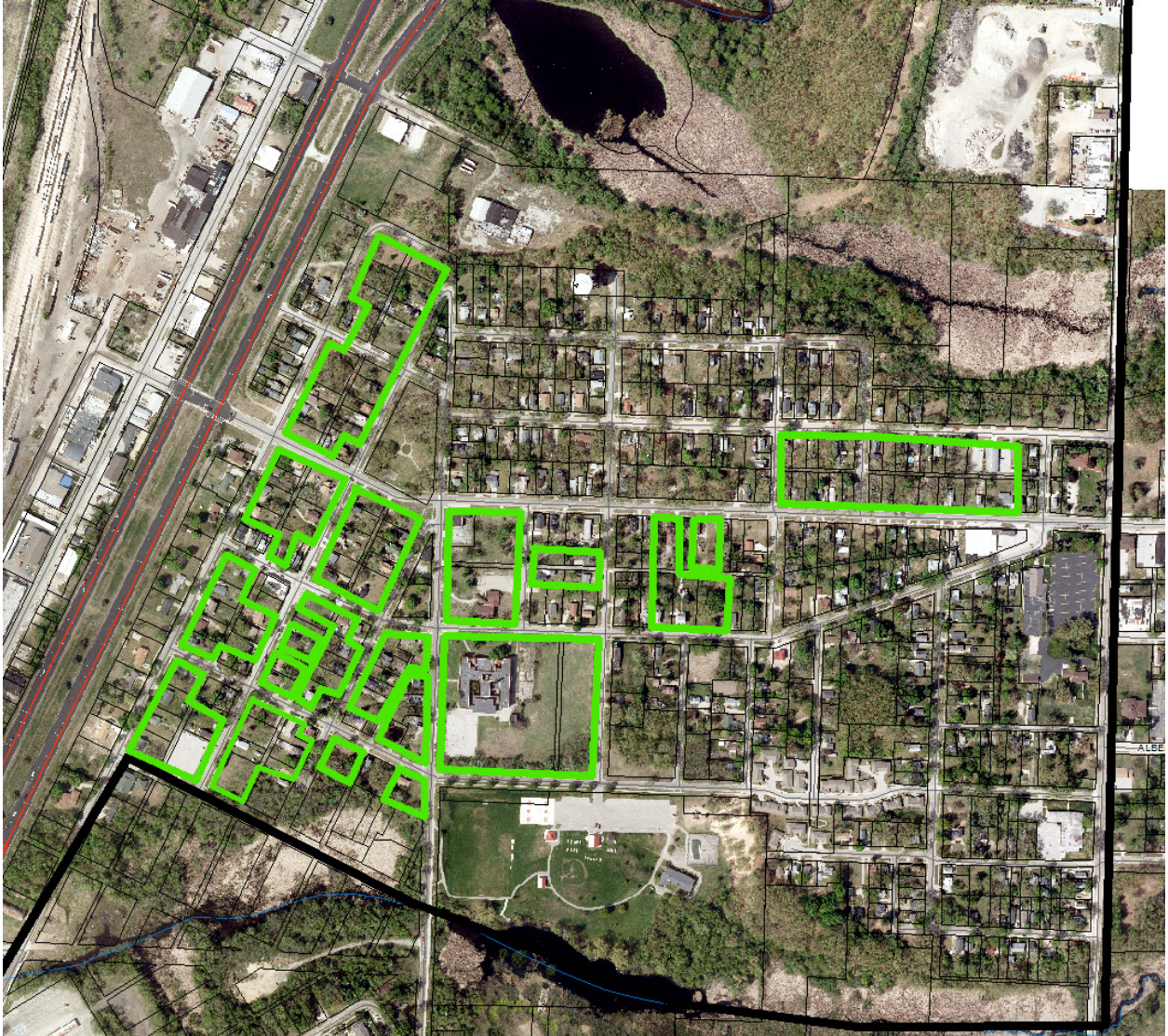
- In February, the Commission amended the FBC to state that small multi-plexes could only be “**4 unit max**, by right.”
- Staff recommends also adding “only when a useable alley is present.”

This will require all small-multiplexes to be placed on appropriately sized lots with alley access, which will cut down on privacy/noise/blight issues that are perceived to be associated with multi-family homes. It will also greatly limit the amount of small multi-plexes allowed on existing lots, ensuring a nice mixture of housing types.

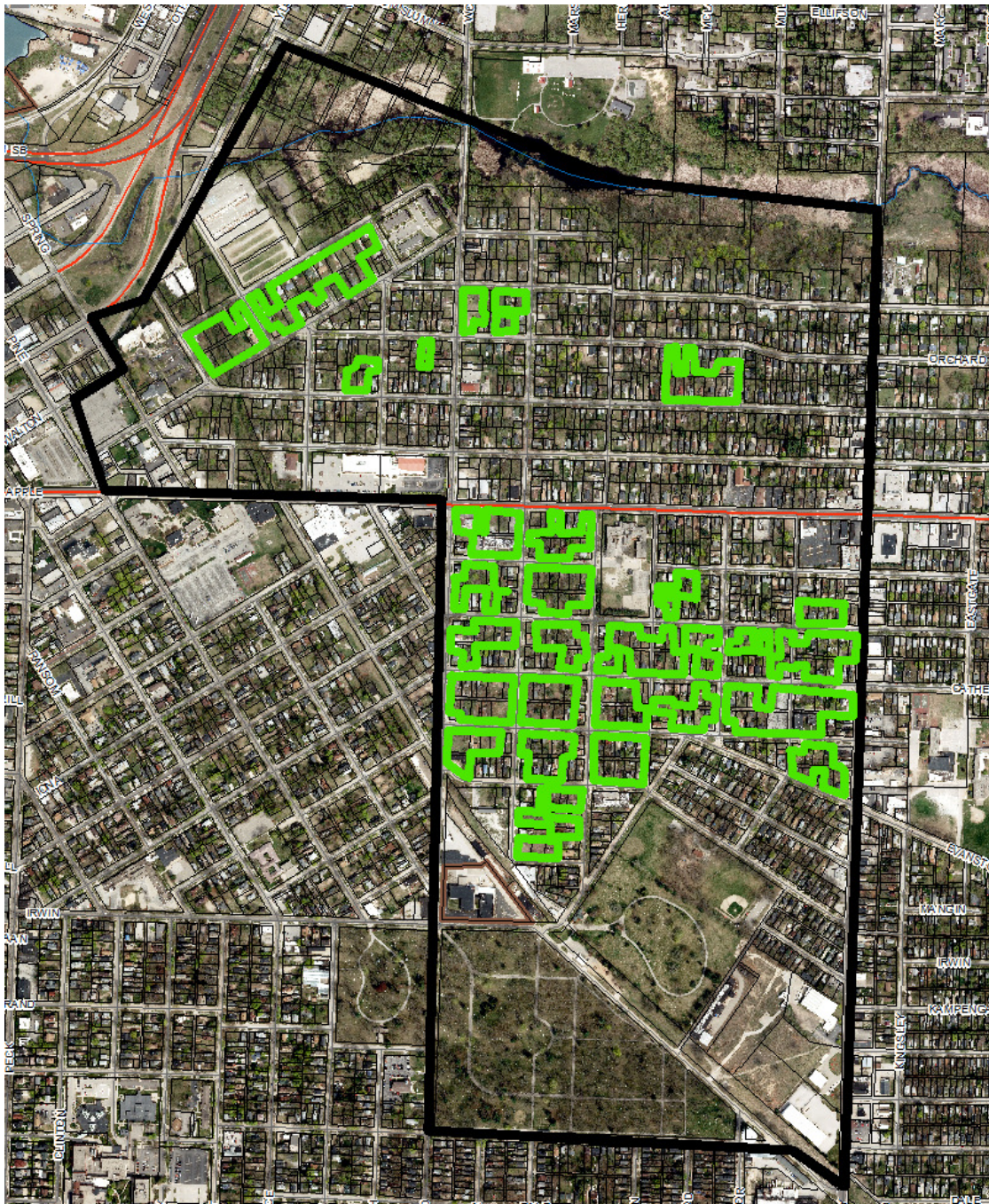
McLaughlin Lots Eligible for Small-Multiplex Homes Under Proposal



Jackson Hill Lots Eligible for Small-Multiplex Homes Under Proposal



Angell Lots Eligible for Small-Multiplex Homes Under Proposal



DELIBERATION

The following motion is offered for consideration:

I move that the request to rezone all single-family (R-1, R-2, R-3) and duplex (RT) parcels in the McLaughlin, Angell and Jackson Hill neighborhoods to Form Based Code, Urban Residential (FBC-UR) be recommended to the City Commission for (approval/denial).

Hearing, Case 2020-16: Staff-initiated request to amend the FBC, UR section of the zoning ordinance to restrict three and four unit homes to parcels that have an alley or other recorded rear access easement for vehicles.

SE SMALL MULTI- PLEX BUILDING TYPE B	with PROJECTING PORCH			
	with STOOP	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with PROJECTING PORCH	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
	with ENGAGED PORCH	4 unit max. By Right	3 story max. / 2 story min.	Lot Width: 50' min. / 80' max. Lot Depth: 100' min.
SE SMALL MULTI- PLEX BUILDING TYPE C	with LIGHTWELL			

Proposed Amendment in bold:

4 unit max by right, **only when useable alley or rear access easement is present.**

DELIBERATION

The following motion is offered for consideration:

I move that the request to amend the FBC, UR section of the zoning ordinance to restrict three and four unit homes to parcels that have an alley or other recorded rear access easement for vehicles, be recommended to the City Commission for (approval/denial).